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OFFICE OF PETITIONS

In re Application of :
Liu, et al. : DECISION ON PETITION
Application No. 10/674,323 :
Filed: September 30, 2003 :
Dkt. No.: 10030761-1 :

This decision is in response to the renewed petition under 37 CFR 1.181, filed August 1, 2007, to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned October 25, 2006 for failure to timely submit a proper reply to the non-final Office action mailed July 24, 2006. The non-final Office action set a two month statutory period of time for reply. Notice of Abandonment was mailed February 23, 2007.

Petitioners allege non-receipt of the non-final Office action mailed July 24, 2006 and have provided documentation in support thereof.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received.

The showing required to establish non-receipt of an Office communication must include a statement that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in the statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are

circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The arguments and supporting documentation presented have been carefully considered and support the conclusion that the non-final Office was not received.

In view thereof the Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

The application file is being forwarded to Technology Center 2100 for re-mailing of the Office communication. The time period for reply will be set in the re-mailed Office communication.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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